

**INVITATION TO PURCHASE STATE LAND  
AT PUBLIC ORAL AUCTION  
MAY 17, 2013**

On behalf of the Montana Department of Public Health and Human Services (DPHHS), the Department of Natural Resources and Conservation will offer the following property in Anaconda-Deer Lodge County for sale at public oral auction.

Information and bid packet are available on the DNRC website at: <http://dnrc.mt.gov/trust/nontruststateland>. Contact Emily Cooper for more information at 406-444-4165, or by email at [ecooper@mt.gov](mailto:ecooper@mt.gov), or at DNRC Real Estate Management Bureau, PO Box 201601, Helena, MT 59620-1601.

**PROPERTY DESCRIPTION**

Tract A - COS 439-C, Section 18, Township 5 North, Range 9 West

**APPRAISED VALUE/MINIMUM OFFER**

The minimum bid of the property has been established by the Land Board as determined by an appraisal and will be used as the **minimum** acceptable bid under the terms and conditions provided herein. The property will not be sold for less than the minimum bid. **The minimum bid for the Land is \$71,000.**

**AUCTION DATE, TIME, AND LOCATION**

- May 9, 2013 at 10:00 a.m.
- Anaconda-Deer Lodge County Courthouse, 800 South Main, Anaconda, MT.

# **AUCTION TERMS AND CONDITIONS**

## **1. AUCTION DATE, TIME, AND LOCATION**

- Friday, May 17, 2013 at 10:00 a.m.
- Anaconda-Deer Lodge County Courthouse, 800 South Main, Anaconda, MT.

## **2. AUCTION TERMS**

An earnest money deposit of 10% must be paid at the close of the auction which will be applied to the final purchase price. The entire balance of the purchase price must be paid in full at the time of closing. Closings will occur by mail and must be within 30 days of final Land Board Approval.

## **3. OFFEROR QUALIFICATIONS**

- a. Persons must be at least 18 years of age in order to participate in the auction; and,
- b. Bids made by public employees must be in compliance with Standards of Conduct set forth in Title 2, Chapter 2, MCA.
- c. Pursuant to 77-1-113, MCA, State employees may be disqualified from participation in the auction.

## **4. SUBMITTING THE BID DEPOSIT**

- a. A bid deposit in the amount of One Thousand (\$1,000.00) Dollars is required in the form of a cashier's check or other certified funds, made payable to the Department of Natural Resources & Conservation. **Do Not Send a Personal Check.**
- b. Each Offer to Purchase and Bid Deposit Receipt must be made on the attached **OFFER TO PURCHASE AND BID DEPOSIT RECEIPT form** and must be received by **Emily Cooper at MT DNRC, P.O. Box 201601, 1625 11<sup>th</sup> Avenue Helena, Montana 59620-1601 on or before 5:00 p.m., Friday, April 26, 2013** to be considered.
- c. Offer to Purchase and Bid Deposit Receipt forms that are not signed and dated and notarized will be disqualified. Offers submitted without sufficient deposit will be disqualified.

## **5. DEADLINE**

Offer to Purchase and Bid Deposit Receipt and bid deposit of \$1,000.00 must be received by DNRC by **5:00 p.m. on Friday, April 26, 2013 (Offer Closing Date)**. All parties submitting a deposit are responsible for ensuring that their deposit is received by the Offer Closing Date. Deposits received after the Offer Closing Date will not be considered.

## 6. AUCTION PARTICIPANTS

Only those individuals submitting an Offer to Purchase and a bid deposit of \$1,000.00 will be allowed to participate in the auction.

## 7. FORFEITURE OF BID DEPOSIT

A qualified bid participant(s) or designated representative(s) who fails to attend the bid auction for reasons other than good cause, as may be determined and approved by DNRC **in writing, prior to the auction date**; and/or who, in the event no other bids are received, fails to pay the minimum bid amount under terms and conditions contained herein, shall at the discretion of DNRC, be deemed to have forfeited the bid deposit to the State of Montana.

## 8. DISQUALIFICATION

Any of the following may, at DNRC's sole discretion, disqualify a participant at the auction, if the:

- a. Offer to Purchase and Bid Deposit Receipt is received without sufficient deposit amount.
- b. Offer to Purchase and Bid Deposit Receipt is not completed in full, signed, dated and notarized.
- c. Offer to Purchase and Bid Deposit Receipt is received after 5:00 p.m. on **Friday, April 26, 2013**.

## 9. SALE PROCEDURE

On the day of sale:

- a. Bidding will open at the minimum bid amount. Bid raises will only be accepted in increments of not less than \$500 until the property is sold to the highest bidder, who will be deemed to be the purchaser of the property.
- b. **Earnest Money Deposit.** An earnest money deposit in the amount of **TEN PERCENT (10%)** of the high bid amount (rounded up to the nearest multiple of \$25) must be submitted to DNRC by the high bidder (purchaser) immediately following the auction and be **in the form** of a **Cashier's Check, Money Order**, or other certified funds made **payable** to the **Department of Natural Resources and Conservation** or **DNRC. DO NOT BRING CASH!** The bid deposit from the purchaser shall be applied toward the purchase price of the property.
- c. DNRC will set a closing date that is mutually agreeable to both parties provided that such date shall be within thirty (30) days of the sale. The balance of the purchase price of the property must be paid in full at closing made payable to DNRC in the form of a cashier's check or other certified funds.

## 10. FORFEITURE OF EARNEST MONEY DEPOSIT

In the event that the purchaser fails to meet any or all of the terms and conditions contained in the bid package documents, all monies which have been collected and credited toward the purchase price may be retained as liquidated damages and not as a penalty, and DNRC shall be free to accept the second high bidder as purchaser.

#### **11. CLOSING COSTS**

The purchaser shall be responsible for paying all closing costs. Closing costs may include, but are not limited to, recording fees, escrow fees, fees related to verification of deposit and credit, and administrative fees.

#### **12. TITLE INSURANCE**

The State of Montana does not warrant title to this property. Title shall be delivered at the time of closing by Grant Deed. Title insurance, if desired, will be the responsibility of the purchaser. No representation of title accuracy is made by the State of Montana, and title investigation is the sole responsibility of the bidders.

#### **13. LAND STATUS**

A copy of the deed vesting title in this property to the State is provided as part of this bid package for informational purposes only. The State of Montana does not warrant title to the property nor attempt to provide a full record of the property.

#### **14. CONVEYANCE**

The parcel shall be conveyed by Grant Deed and shall be fully subject to all encumbrances, including but not limited to patents, easements, conditions, taxes, assessments, zoning regulations, rights-of-way, exceptions and restrictions of record, and reservations of oil, petroleum, gas, coal, ore, minerals, fissionable materials, geothermal resources, fossils or other rights (gaseous, liquid and solid) in and under the property. DNRC will send a copy of the deed to the Ravalli County Clerk & Recorder for recordation. The recorded deed will be sent by the county to the purchaser.

#### **15. PARCEL INSPECTION**

Interested parties are strongly urged to do an on-site inspection of the parcel prior to submitting an Offer to Purchase. It is also recommended that offerors inspect all public records pertaining to this property.

#### **16. WARRANTIES**

Purchaser assumes all responsibility and liability for the property. It is the purchaser's responsibility to examine the property and take such other steps as may be necessary to ascertain the exact character and location of the property and

improvements. Purchaser assumes all responsibility and liability to comply with applicable law. In addition, DNRC makes no warranties, either express or implied, nor assumes or retains any liability whatsoever, regarding the social, economic, safety, human health, or environmental aspects of the property, to include, without limitation, the soil conditions, water drainage, physical access, environmental mitigation, natural or artificial hazards which may or may not exist, or the merchantability, suitability or profitability of the property for any use or purpose. **This property is offered "AS IS".**

## **17. CONDITIONS**

DNRC reserves the right to postpone or cancel this offering, in whole or in part, to change the minimum price of the parcel, or to withdraw parcel from this sale at any time prior to the sale, without notice. DNRC shall not be liable for any expenses incurred by any parties participating in this sale as a result of, but not limited to, a change in the minimum price, or withdrawal of the parcel from sale. The right is reserved to waive technical defects in the bid package.

## **18. VENUE**

Venue for any disputes involving this auction of real property shall be in the First Judicial District Court in and for Lewis and Clark County, Montana.

# TERMS AND CONDITIONS FOR SALE OF STATE LAND

## **1. PROPERTY, CONVEYANCE AND TITLE INSURANCE**

- The terms of sale set forth herein are subject to the provisions of Statutes found in §77-2-301 through 323, Montana Code Annotated.
- The property to be sold is described in the Offer to Purchase.
- All of the State's interest as lessor in any leases, rental, or occupancy agreements covering any portion of the property, and exclusive easements, rights of way, water rights, and other rights used in connection with the property will be conveyed, except for those rights to be reserved by the State as stipulated in Section 2 of these Terms and Conditions.
- All property sold is subject to existing easements and encumbrances on file with the Anaconda-Deer Lodge County Clerk and Recorder and the Montana Department of Natural Resources and Conservation.
- Those minerals and access rights described in Section 77-2-304, MCA, are reserved from sale.
- All property is sold subject to all assessments unpaid at time of sale.
- All property is sold "AS IS", without any warranty of title. Bidders are encouraged to examine the property offered for sale to ascertain for themselves the condition of the property, and the existence, if any, of encumbrances, encroachments, etc. The State does not make, and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, about property offered for sale, including, but not limited to any improvements located thereon, and no employee or agent of the State is authorized to provide any such warranty. Additionally, without limitation, the State does not warrant the existence or nonexistence of any pollutants, contaminants, or hazardous waste prohibited by law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration, or escape of such substances at, from, or into any State land offered for sale. Purchaser shall fully release the State from any and all liability to the Purchaser arising out of or related to the condition of the property prior to closing. Purchaser shall indemnify, defend, and hold harmless the State with respect to, but not limited to any claims, damages, liabilities, penalties (civil and criminal), and any other costs, including attorney's fees and costs imposed or related to any hazardous, toxic, dangerous, or harmful substances on the property, deposited or released after the title to the property has been conveyed to the Purchaser.
- The State will convey title to the sale parcel by Grant Deed. The State shall arrange for the deed to be executed by the Governor upon final approval of the sale by the Board of Land Commissioners and confirmation that the State Treasurer has received the full purchase price and other payments required of the Purchaser.
- The State does not furnish title insurance.
- Closing shall attempt to conduct all closings by mail unless alternative time and location are mutually agreed upon by all parties.

- Purchaser must also execute any other documents necessary to consummate sale as provided herein.

## 2. RESERVATIONS

- a. The State reserves a nonexclusive right of way easement under and across the sale parcel for the purposes of a sanitary pipeline. The right of way reserved contains a combined total of 16,685 square feet.

## 3. OTHER CONDITIONS

The grant deed will include a requirement:

- The purchaser shall construct and maintain a continuous fence or wall not less than six feet (6') in height above grade along the west property boundary of the sale parcel. The fence or wall will be designed to provide a physical barrier and to visually screen the parcel the direction of the Montana State Hospital. In addition, the purchaser will also agree to certain restrictions on signage and references to the Montana State Hospital and its clients in any and all advertising and promotional materials.
- The purchaser will install a water meter that will be billed by Montana State Hospital for water used at the same rate that City of Anaconda assesses the Montana State Hospital for its services.
- Montana State Hospital will provide sewer service to the property for a fee to be based upon the buyer's proportional share of use.
- The purchaser will be responsible for a proportional share of sewer system maintenance, repair, upgrades, fees and operating costs.

## 4. WATER AND SEWER SERVICE; PURCHASE OF WATERLINE EASEMENT

The Purchaser has the option to access and obtain water and sewer service from and through the Hospital. These services are only available subject to the following conditions:

- a. The Purchaser must agree to and execute the Water and Sewer Service Agreement in Exhibit A.
- b. To receive water service, the Purchaser must also acquire a water service line easement, shown in Exhibit A. **The value of the easement will be \$11,000.**

## 5. PURCHASE PRICE AND PAYMENT

- a. The purchase price consists of the amount of the winning bid plus other charges as stipulated herein.
- b. The Purchaser, if other than the Lessee, shall reimburse the Lessee for the reasonable value of those improvements the purchaser has accepted. Where there is a dispute over the value of the improvements, arbitration, as detailed in 77-6-306, MCA, shall be used to set the value of improvements.

- c. The winning bidder is responsible for payment to the current lessee an amount equal to the cost of the survey and appraisal **(\$6,950)**. This cost is not negotiable.
- d. The closing shall occur by mail on a date mutually agreed upon by the DNRC and Purchaser, provided that such date shall be within thirty (30) days of final Land Board Approval. Full payment of the purchase price shall be made at the closing in the form of a cashier's check or other certified funds.

## **6. DESTRUCTION OR CONDEMNATION**

- a. If on or before the date set for full payment of the purchase price, the property is either materially damaged, or condemnation proceedings are commenced with respect to the property, the Purchaser shall have the right, at its sole election, by giving notice to the State prior to the date of payment, either to terminate the purchase or to purchase the property. If Purchaser elects to terminate the purchase, the bid deposit will be returned to the Purchaser and all rights and obligations of the Purchaser and State under the public auction shall terminate.
- b. Should the Purchaser purchase the property, the Purchaser shall have the right to receive Condemnation awards payable by reason of the damage or condemnation occurring prior to sale. Should the Purchaser elect to terminate the purchase, the State shall retain all such Condemnation awards.

## **7. NOTICES**

Any notices given by State to the successful bidder shall be in writing and shall be deemed given upon personal service or deposit in the United States first class mail, postage prepaid, addressed to the bidder at the last address furnished by him or her in writing.

## **8. PRORATIONS**

The State will prorate all irrigation, water, sewer, utility, maintenance or other expenses with respect to the operation of State property between the Purchaser and the State as of the date of execution of the deed to the property by the Governor, or as of the date on which the department executes the real estate contract for the sale of the property, as the case may be. Prorations are due and payable at the same time as the full payment of the purchase price.

## **9. REAL ESTATE COMMISSIONS**

Real estate commissions are paid at the discretion of the Director of DNRC. Only those parcels for which a commission is published are eligible for a commission. For all other sales, the real estate agent or broker acting in connection with a sale shall be deemed to be the sole agent of the Purchaser, and the Purchaser shall pay any real estate commission payable in connection therewith.

## **10. ASSIGNMENT**



No purchaser of State land may assign its purchase rights without the prior written consent and acceptance by the State, which consent and acceptance the State may withhold in its sole and absolute discretion.

## **11. POSSESSION**

- a. The Purchaser of State land is entitled to possession upon execution of the deed by the Governor, subject to any existing leases and rights of persons in possession of the property. All property is sold subject to settlement with the lessee for improvements (if any) to the land as required by Sections 77-2-325 and 77-6-302 through 306, Montana Code Annotated.
- b. The Purchaser's representations, warranties, and obligations shall be operative on and after any conveyance of the Property, and shall not be deemed to have merged with any deed, or be extinguished as a result of the conveyance.

## **12. SETTLEMENT FOR LESSEE OWNED IMPROVEMENTS**

The purchaser, if not the lessee shall pay the lessee the reasonable value of the improvements at the time the purchaser takes possession thereof. In instances where the purchaser and the improvements owner are unable to agree on the reasonable value of such improvements, arbitration shall take place in accordance with 77-6-306, MCA.

## **13. REAL PROPERTY TAXES**

The State of Montana is exempt from paying real property taxes. The purchaser will be responsible for future real property taxes from the date of closing.

*Insure form is completely filled out, signed, and notarized prior to submittal.*

## **STATE OF MONTANA LAND SALE OFFER TO PURCHASE AND BID DEPOSIT RECEIPT**

The undersigned Potential Bidder (hereinafter called "Bidder"):

\_\_\_\_\_  
Bidder(s)

offers to purchase from the State of Montana, Montana Department of Natural Resources and Conservation (DNRC), by and through the State Board of Land Commissioners (hereafter referred to as "Seller") the real property described below upon the terms and conditions set forth herein should the Bidder's offer be accepted by the Seller.

as ☐ joint tenants with rights of a survivorship, ☐ tenants in common, ☐ single in his/her own right, ☐ other \_\_\_\_\_ offers to purchase the following described real property (hereinafter referred to as "Property"):

**Tract A – Cos 439-C, Sec. 18, Township 5 North, Range 9 West**

Amount of Bid Deposit Enclosed \$\_\_\_\_\_

Should the Seller accept the bid of the above-described Bidder for the purchase of the above-described real property, the Seller and the Bidder, hereby agree that:

1. Bidder shall pay any balance owed on the purchase price on or before 30 days after the auction date in accordance with §77-2-329, MCA, and any closing costs associated with the sale. Receipt by the Seller of the full balance owed constitutes the effective date of sale. If payment is not made in accordance with §77-2-329, MCA, Bidder forfeits their bid deposit, which is being held by the Seller.
2. Bidder shall be responsible for making any and all payments to Anaconda-Deer Lodge County for taxes and/or assessments, if any, levied against the property for the current tax year.
3. Bidder shall in accordance with §77-2-325 & 77-6-301 through 77-6-303, MCA, make settlement with the current lessee, for all improvements on the land belonging to the lessee. Lessee agrees to the termination of their active Lease/License of State Lands within thirty (30) days following the Seller's final approval of the sale of the parcel.
4. Bidder shall be responsible for reimbursement to the current lessee for the cost of the survey and appraisal of the subject property, which were borne by the current lessee.
5. The Buyer represents that he/she is eighteen (18) years of age or older, of sound mind, and legally competent to own or transfer real property in the State of Montana; and, if acting on behalf of a corporation, partnership, or other non-human entity, that he/she is duly authorized to enter into this Agreement on behalf of such entity.
6. The department shall retain the bid deposit of the successful bidder, which will be applied toward the purchase price. The department shall return the bid deposits of all unsuccessful bidders within ten business days following the auction.
7. State retains any/all access easements for itself across the parcel unless specifically stated otherwise.
8. Purchaser assumes all responsibility and liability for the property, buildings, and any contents (i.e., asbestos, hazard mitigation, etc.). It is the purchaser's responsibility to examine the property and take such other steps as may be necessary to ascertain the exact character and location of the property and improvements. Purchaser assumes all responsibility and liability to comply with applicable law. In addition, DNRC makes no warranties, either express or implied, nor assumes or retains any liability whatsoever, regarding the social, economic, safety, human health, or environmental aspects of the property, to include, without limitation, the soil conditions, water drainage, physical access, environmental mitigation, natural or artificial hazards which may or may

not exist, or the merchantability, suitability or profitability of the property for any use or purpose. **This property is offered "AS IS".**

9. Conditions of title may change before the auction. At the auction, if title conditions have changed, bidders will be provided with an update of the land status and the parcel will be sold subject to the current conditions.
10. Where no bids are received at auction **due to changes in terms, conditions, or an increase in the minimum bid**, each bid deposit shall be returned to the bidder who submitted it to the department.
11. The Invitation to Purchase, Terms of Sale, Auction Terms and Conditions, Water and Sewer Service Agreement, and unexecuted Water Service Line Easement are incorporated into this purchase agreement by reference herein.

The Bidder hereby verifies that they have read and understood the provisions of this agreement.

_____ Bidder	_____ Tax ID Number	_____ Date
_____ Bidder	_____ Tax ID Number	_____ Date

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed name)

Notary Public for the State of \_\_\_\_\_

Residing at \_\_\_\_\_ (City)

My commission expires \_\_\_\_\_  
(Month, Day, Year)